



Department of Pesticide Regulation



Peter M. Rooney
Secretary for
Environmental
Protection

James W. Wells, Director
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Pete Wilson
Governor

August 7, 1998

ENF 98-036

TO: County Agricultural Commissioners

SUBJECT: MEMORANDUM OF UNDERSTANDING BETWEEN
THE DEPARTMENT OF PESTICIDE REGULATION,
DEPARTMENT OF CONSUMER AFFAIRS STRUCTURAL PEST
CONTROL BOARD, AND THE CALIFORNIA AGRICULTURAL
COMMISSIONERS AND SEALERS ASSOCIATION

The attached draft Memorandum of Understanding (MOU) is a revised version of the conceptual MOU (ENF 98-003) you received earlier this year. Changes were made to the conceptual MOU following a review of discussions and comments, received during the May 1998 Spring Conference. Recommendations were researched and evaluated by the Department of Pesticide Regulation (DPR) and Structural Pest Control Board (SPCB) staff. Draft revisions were completed by the Structural Pest Control Work Group which includes Mr. Frank Carl, Sacramento County Agricultural Commissioner, Ms. Donna J. Kingwell, Registrar, SPCB, and Mr. Charles M. Andrews, Chief, Pesticide Enforcement Branch.

The draft MOU will be presented for discussion at the California Agricultural Commissioners and Sealers Association (CACASA) area group meetings during August, September, and October. Our goal is to ratify the MOU in time for the November 1998 Winter Conference.

The Structural Pest Control Work Group has made significant improvements to the structural pest control enforcement program. I appreciate the input that many of you provided, based on the conceptual MOU, and I am confident the revised draft addresses the key issues of program coordination and communication.

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If you have additional questions, please do not hesitate to contact me. I would appreciate comments on the draft MOU by September 15, 1998.

Sincerely,

A handwritten signature in cursive script, appearing to read "Charles M. Andrews".

Charles M. Andrews, Chief
Pesticide Enforcement Branch
(916) 445-3920

Attachment

cc: Ms. Donna J. Kingwell, Registrar, SPCB (w/attachment)
Mr. Frank Carl, Sacramento County Agricultural
Commissioner (w/attachment)
Mr. James W. Wells, Director, DPR (w/attachment)

DRAFT

MEMORANDUM OF UNDERSTANDING BETWEEN THE DEPARTMENT OF PESTICIDE REGULATION, DEPARTMENT OF CONSUMER AFFAIRS' STRUCTURAL PEST CONTROL BOARD, AND THE CALIFORNIA AGRICULTURAL COMMISSIONERS AND SEALERS ASSOCIATION (Revised August 4, 1998)

INTRODUCTION

The Department of Pesticide Regulation (DPR), the Structural Pest Control Board (SPCB), and the California Agricultural Commissioners and Sealers Association (CACASA), to ensure a uniform and coordinated Structural Pest Control Enforcement Program, hereby enter into this Memorandum of Understanding (MOU). The purpose of this MOU is to foster greater cooperation in communication and coordination of joint responsibilities while regulating the activities of structural pest control licensees.

SCOPE

This MOU outlines a strategy for effective communication as it relates to the activities associated with the Structural Pest Control Enforcement Program. This MOU also identifies the areas of responsibility, jurisdiction, enforcement coordination, and training between DPR, SPCB, and the county agricultural commissioners (commissioners).

RESPONSIBILITY

DPR has primary responsibility for regulating all aspects of pesticide sales and use. The Food and Agricultural Code (FAC) authorizes DPR and the commissioners to regulate pesticides and pesticide use. The Director of DPR (Director) and the commissioners, under the direction of the Director, are responsible for enforcing FAC Divisions 6 and 7 and the regulations issued pursuant to those divisions. DPR is responsible for statewide enforcement issues, assisting in planning and developing a county program that includes statewide uniformity, and training. DPR is also responsible for maintaining the California Plan for the Certification of

Commercial and Private Applicators, as published in the Federal Register on July 30, 1980 (45 FR50652).

SPCB is responsible for regulating the practice of structural pest control through the administration of Division 3 of the Business and Professions Code (B&P Code). These activities include issuance of licenses to qualified applicants, mediating consumer complaints, conducting investigations, and taking disciplinary action against licensees who fail to comply with laws and regulations relating to their business practices.

STATUTORY AUTHORITIES

FAC section 2281 specifies that, where provisions place joint responsibility for enforcement of laws and regulations on the Director and the commissioners, the commissioners are responsible for the local administration of the enforcement program. B&P Code, Division 3, section 8616, authorizes the Director to act as SPCB's agent for the purpose of carrying out the provisions of section 8616.4; section 8616.4 authorizes the Director to designate the commissioners as representatives to carry out the provisions of sections 8616.5, 8616.7, and 8617; pursuant to section 8616.5(a), commissioners are the lead agencies for inspections and routine investigations of pesticide use by SPCB licensees and registered companies; section 8616.7 further authorizes commissioners to conduct inspections and routine investigations pursuant to section 8616.5; and take civil penalty actions pursuant to section 8617.

PROGRAM COORDINATION

To avoid duplication of efforts, DPR, SPCB, and the commissioners agree to work jointly, cooperatively, and uniformly to enforce pesticide laws and regulations pertaining to SPCB licensees. All parties agree to communicate with each other regarding the development of legislation, proposed regulations, inspection protocols, and enforcement guidelines relating to the Structural Pest Control Enforcement Program. Working with DPR, the commissioners will report and coordinate investigations of unlicensed structural pest control activity with SPCB. SPCB will advise DPR and the commissioner of the status of each case of unlicensed activity referred to SPCB.

Each year, DPR negotiates a cooperative agreement with the U.S. Environmental Protection Agency for activities related to the licensing and certification of applicators. This agreement ensures compliance with California's Plan for the Certification of Commercial and Private Applicators. SPCB may review proposed updates relating to structural pest control licenses, provide input, and offer suggestions on revisions to the plan.

Annually, DPR negotiates a work plan with each commissioner that outlines the objectives for the county's pesticide enforcement program. The work plan is based on a prioritization plan that is revised annually. SPCB may review the prioritization plan, provide input on industry trends and practices, and offer suggestions on the structural pest control enforcement activities.

COMMUNICATION

Commissioners' and SPCB's staff periodically perform similar enforcement activities such as business office and records inspections. When SPCB staff encounter possible violations of the B&P Code or Title 16 of the California Code of Regulations pertaining to pesticide use, SPCB will refer these findings to the commissioner for follow-up. SPCB will provide information regarding licensing actions taken against licensees for cases involving pesticide use violations and notify the commissioner of the final disposition of all revocations and suspensions of registered companies.

DPR will provide SPCB with information regarding priority investigations, administrative or judicial actions, agricultural civil penalty actions, and complaints (including unlicensed activity) related to structural pest control.

An annual meeting between DPR, SPCB, and CACASA may be held to discuss joint programs. DPR and SPCB agree to meet regularly to review and confer regarding current enforcement issues and related activities. Prior to the development of any change in the statutes or regulations pertaining to structural pest control, DPR and SPCB will meet and discuss the proposed rulemaking action or legislative concept.

SPCB will advise DPR of any licensee program changes that would require modification of the California Plan for the Certification of Commercial and Private Applicators.

TRAINING

DPR, SPCB, and CACASA agree to participate in the development of a training program for county inspectors performing structural pest control enforcement activities. A training committee made up of representatives selected by the principles will meet periodically to evaluate the program, develop recommendations for program changes, and implement the changes as warranted for future training sessions. On occasion, representatives from the structural pest control industry, or other parties with recognized experience, may be invited to participate in the development of the recommendations for program changes.

TERMS

This MOU may be renewed or modified at any time by mutual written consent of all groups, or terminated by any party with a 30-day advance written notice to the other parties.